

California Code of Regulations
Title 9. Rehabilitative and Developmental Services
Division 1. Department of Mental Health
Chapter 11. Medi-Cal Specialty Mental Health Services

Subchapter 1. General Provisions

Article 3. Administration

1) Amend Section 1810.317 as follows:

§ 1810.317. Contract Term.

(a) The term of the contract between a MHP and the Department shall be for a term agreed to by the parties. Regardless of the effective date of the contract, the expiration date of the contract shall be June 30, the end of the State fiscal year.

(b) Prior to the expiration of this contract and upon request by the Department, the MHP shall assist the State in the orderly transfer of beneficiaries' mental health care. In doing this, the MHP shall make available to the Department copies of medical records, patient files, and any other pertinent information, including information maintained by any subcontractor, necessary for efficient case management of beneficiaries, as determined by the Department. Costs of reproduction shall be borne by the Department. In no circumstances shall a beneficiary be billed for this service.

NOTE: Authority: Section 14680, Welfare and Institutions Code. Reference: Sections 5775, 5777 and 5778, Welfare and Institutions Code.

2) Amend Section 1810.321 as follows:

§ 1810.321. Contract Renewal.

(a) through (c) [No Change to Regulation Text.]

(d) Prior to the nonrenewal of this contract and upon request by the Department, the MHP shall assist the State in the orderly transfer of beneficiaries' mental health care. In doing this, the MHP shall make available to the Department copies of medical records, patient files, and any other pertinent information, including information maintained by any subcontractor, necessary for efficient case management of beneficiaries, as determined by the Department. Costs of reproduction shall be borne by the Department. In no circumstance shall a beneficiary be billed for this service.

NOTE: Authority: Section 14680, Welfare and Institutions Code. Reference: Sections 5775, 5777 and 5778, Welfare and Institutions Code.

3) Amend Section 1810.323 as follows:

§ 1810.323. Contract Termination.

(a) through (i) [No Change to Regulation Text.]

(j) Prior to the termination of this contact and upon request by the Department, the MHP shall assist the State in the orderly transfer of beneficiaries' mental health care. In doing this, the MHP shall make available to the Department copies of medical records, patient files, and any other pertinent information, including information maintained by any subcontractor, necessary for efficient case management of beneficiaries, as determined by the Department. Costs of reproduction shall be borne by the Department. In no circumstance shall a beneficiary be billed for this service.

NOTE: Authority: Section 14680, Welfare and Institutions Code. Reference: Sections 5775, 5777 and 5778, Welfare and Institutions Code.

4) Adopt Section 1810.326 as follows:

§ 1810.326. Practice Guidelines.

The MHP shall comply with title 42 Code of Federal Regulations (CFR) section 438.236.

NOTE: Authority: Section 14684, Welfare and Institutions Code. Reference: title 42 Code of Federal Regulations section 438.236.

5) Amend Section 1810.345 as follows:

§ 1810.345. Scope of Covered Specialty Mental Health Services.

(a) through (c) *[No Change to Regulation Text.]*

(d) In accordance with title 42 CFR section 438.210(a)(3)-(4), the MHP may place appropriate limits on a service.

(e) Notwithstanding section 1830.220 regarding out-of-plan services, the MHP is financially responsible for post-stabilization care services obtained within or outside of the MHP's provider network that are provided in compliance with title 42 CFR section 422.113(c)(1)-(3).

(f) The MHP shall obtain prior approval from the Department if the MHP intends to refuse to provide or arrange and pay for a covered service because the MHP objects to the service on moral or religious grounds.

(1) The Department shall approve the request only if the State is able to provide adequate access to the service or services the MHP does not intend to provide.

(2) If the Department does not approve the request, the MHP may terminate the contract in accordance with section 1810.323.

(g) The Department may exclude psychiatric nursing facility services from the specialty mental health services covered by the MHP until the Department determines that all necessary systems are in place at the State level to ensure proper payment of the providers of psychiatric nursing facility services and proper claiming of federal funds pursuant to Subchapter 4, beginning with section 1840.100. The Department shall ensure that the contract between the MHP and the Department and the allocation to the MHP pursuant to section 1810.330 reflect the exclusion or inclusion of these services.

NOTE: Authority: Section 14680, Welfare and Institutions Code. Reference: Sections 5775, 5777, 14007.5, 14011, 14142 and 14682, Welfare and Institutions Code; title 42 United States Code sections 1396 and 1396a; title 42 Code of Federal Regulations sections 438.102(a)(2), 422.113(c)(1)-(3) and 438.114.

6) Amend Section 1810.350 as follows:

§ 1810.350. Scope of Covered Psychiatric Inpatient Hospital Services.

(a) through (d) [No Change to Regulation Text.]

(e) The MHP shall obtain prior approval from the Department if the MHP intends to refuse to provide or arrange and pay for a covered service because the MHP objects to the service on moral or religious grounds.

(1) The Department shall approve the request only if the State is able to provide adequate access to the service or services that the MHP does not intend to provide.

(2) If the Department does not approve the request, the MHP may terminate the contract in accordance with section 1810.323.

NOTE: Authority: Section 14680, Welfare and Institutions Code. Reference: Sections 5775, 5777, and 14684, Welfare and Institutions Code; title 42 Code of Federal Regulations section 438.102(a)(2).

7) Amend Section 1810.360 as follows:

§ 1810.360. Notification of Beneficiaries.

(a) The MHP shall develop, implement and maintain written policies that address the beneficiary's rights in accordance with title 42 CFR section 438.100 and shall communicate these policies to its beneficiaries and providers.

~~(a)~~ (b) Prior to the date...

~~(b)~~ (c) The Department shall provide...

~~(c)~~ (d) The Department shall provide...

~~(d)~~ (e) The MHP of the beneficiary...

~~(e)~~ (f) The booklet and provider...

(g) The booklet shall be updated to reflect changes in State laws governing advance directives as soon as possible, but no later than 90 days after the effective date of the change. The MHP shall maintain written policies and procedures respecting advance directives in compliance with the requirements of title 42 CFR sections 422.128 and 438.6(i)(1), (3) and (4).

(h) The MHP shall provide written notice to beneficiaries in regards to the termination of a provider's contract as required by title 42 CFR section 438.10(f)(5).

NOTE: Authority: Section 14680, Welfare and Institutions Code. Reference: Section 14683, Welfare and Institutions Code; title 42 Code of Federal Regulations sections 422.128, 438.10 and 438.6(i)(1), (3) and (4).

8) Amend Section 1810.365 as follows:

§ 1810.365. Beneficiary Billing.

(a) through (b) *[No Change to Regulation Text.]*

(c) The MHP or an affiliate, vendor, contractor, or sub-contractor of the MHP shall not hold beneficiaries liable for debts in the event that:

(1) the MHP becomes insolvent,

(2) the State does not pay the MHP for costs of covered services.

(3) the State or the MHP does not pay the MHP provider(s) for covered services.

(4) covered services are provided and paid for under a contract, referral or other arrangement rather than from the MHP,

(5) subsequent screening and treatment is needed to diagnose the specific condition of or stabilize a beneficiary with an emergency psychiatric condition.

NOTE: Authority: Section 14680, Welfare and Institutions Code. Reference: Sections 5777, 14005.9, 14024, and 14134, Welfare and Institutions Code.

9) Amend Section 1810.375 as follows:

§ 1810.375. MHP Reporting.

Each MHP shall submit reports to the Department as specified below:

(a) *through (c)* [No Change to Regulation Text.]

(d) Pursuant to Welfare and Institutions Code section 5777(a)(1), using methods and procedures established by the Department, by December 31 of the year following the close of each State fiscal year, the amount of any unexpended balance for the cost of covered services, utilization review and administration still remaining from the allocation made pursuant to sections 1810.330 or 1810.335 for that State fiscal year. This reporting requirement shall also apply to the organizational entity administering the small county reserve pursuant to section 1810.341(e). Neither an MHP nor the organizational entity administering the small county reserve shall be required to return any excess to the Department.

(e) [No Change to Regulation Text.]

NOTE: Authority: Section 14680, Welfare and Institutions Code. Reference: Section 5775, 5777, and 14684, Welfare and Institutions Code.

10) Adopt Section 1810.376 as follows:

§ 1810.376. Health Information Systems.

(a) The MHP shall maintain a health information system that collects, analyzes, integrates, and reports data and provides information on areas including, but not limited to, utilization, grievances and appeals as required by title 42 CFR section 438.242(a).

(b) The basic elements of the health information system as required by title 42 CFR section 438.242(b) shall, at a minimum:

(1) collect data on a beneficiary and provide characteristics as specified by the Department, and on services furnished to beneficiaries as specified by the Department;

(2) ensure that data received from providers is accurate and complete by verifying the accuracy and timeliness of reported data; screening the data for completeness, logic, and consistency; and collecting service information in standardized formats to the extent feasible and appropriate.

(c) Nothing in this section requires that all elements of the MHP's health information system be collected and analyzed in electronic formats.

(d) For the purpose of this section, "persons with special health care needs" are adults with a serious mental disorder and children with a serious emotional disturbance.

(1) The MHP shall identify persons with special health care needs through the administration of surveys in accordance with the Department's Performance Outcome System.

NOTE: Authority: Section 14684, Welfare and Institutions Code. Reference: Welfare and Institutions Code, section 5650 et seq. and title 42 Code of Federal Regulations sections 438.242(a)-(b) and 438.208(a)(2)(ii) and (c).

11) Amend Section 1810.380 as follows:

§ 1810.380. State Oversight.

(a) The MHPs shall be subject to state oversight, including the following:

(1) *[No Change to Regulation Text.]*

(2) Reviews of program and fiscal operations and the books and records of each MHP to verify that medically necessary services are provided in compliance with this Chapter.

(A) These books and records shall disclose the quantity of covered services provided under this contract, the quality of those services, the manner and amount of payment made for those services, the beneficiaries eligible to receive covered services, the manner in which the MHP administered its daily business, and the cost thereof.

(B) Such books and records shall include, but shall not be limited to, all physical records originated or prepared pursuant to the performance under the MHP's contract including working papers, reports submitted to the Department, financial records, all medical and treatment records, medical charts and prescription files, and other documentation pertaining to services rendered to beneficiaries.

(C) These books and records shall be maintained for a minimum of three years after the final payment is made and all pending matters closed, or, in the event the MHP has been duly notified that the Department, DHCS, HHS, or the Comptroller General of the United States, or their duly authorized representatives, have commenced an audit or investigation of the contract, until such time as the matter under audit or investigation has been resolved, whichever is later.

(3) through (4) *[No Change to Regulation Text.]*

(5) Monitoring provider contracts to ensure that the MHP enters into necessary contracts with DSH and Traditional Hospitals and that, pursuant to title 42 CFR section 438.230(a)(1), the MHP is accountable for any functions and responsibilities it has delegated to any subcontractor or another MHP.

(6) through (7) *[No Change to Regulation Text.]*

(b) through (e) *[No Change to Regulation Text.]*

NOTE: Authority: Section 14680, Welfare and Institutions Code. Reference: Sections 5775, 5777, 5778, and 14684, Welfare and Institutions Code and title 42 Code of Federal Regulations sections 438.204, 438.230 and 438.6.

Article 4. Standards

12) Amend Section 1810.425 as follows:

§ 1810.425. Hospital Selection Criteria.

An MHP shall establish a hospital selection process that meets the following criteria:

(a) The MHP shall require that each hospital:

(1) Comply with federal Medicaid laws, regulations and guidelines and State statutes and regulations and meet the terms of the contract between the MHP and the Department.

(2) through (5) *[No Change to Regulation Text.]*

(b) *[No Change to Regulation Text.]*

NOTE: Authority: Section 14680, Welfare and Institutions Code. Reference: Sections 5777, 5778, and 14684, Welfare and Institutions Code.

13) Amend Section 1810.430 as follows:

§ 1810.430. Contracting for Psychiatric Inpatient Hospital Service Availability.

(a) through (c) *[No Change to Regulation Text.]*

(d) At a minimum, a contract between an MHP and a provider of psychiatric inpatient hospital services shall meet federal contracting requirements as provided in Title 42, CFR Section 438.6(l), and shall include the following provisions:

(1) through (6) *[No Change to Regulation Text.]*

(7) If the contract is in excess of \$10,000 and utilizes State funds, a provision that: “The contracting parties shall be subject to the examination and audit of the Auditor General for a period of three years after the final payment under contract (Government Code section 8546.7).” The MHP shall also be subject to the examination and audit of the State Auditor General for a period of three years after final payment under contract (Government Code section 8546.7).

(e) For providers of Psychiatric Inpatient Hospital services that conduct utilization management activities, the MHP must ensure that the compensation arrangements in the contract are not structured so as to provide incentives for the provider of Psychiatric Inpatient Hospital services to deny, limit, or discontinue medically necessary services to any beneficiary.

(f) Written policies that address a beneficiary’s rights as required by title 42 CFR section 438.100 shall be included in the contracts.

~~(e)~~ (g) No provision of a contract...

~~(f)~~ (h) A formal contract between...

NOTE: Authority: Section 14680, Welfare and Institutions Code; Government Code section 8546.7. Reference: Sections 5777, 5778, and 14684, Welfare and Institutions Code and title 42 Code of Federal Regulations sections 438.100 and 438.6

14) Amend Section 1810.435 as follows:

§ 1810.435. MHP Individual, Group and Organizational Provider Selection Criteria.

(a) through (c) *[No Change to Regulation Text.]*

(d) The MHP shall certify that a provider other than the MHP meets the criteria in subsections (b) or (c) prior to the provision of specialty mental health services under this Chapter, unless another time frame is provided in the contract between the Department and the MHP. For organizational providers, the MHP's certification process shall include an on-site review in addition to a review of relevant documentation. The MHP may accept the certification of a provider by another MHP or by the Department.

(e) *[No Change to Regulation Text.]*

NOTE: Authority: Section 14680, Welfare and Institutions Code. Reference: Section 5777 and 14684, Welfare and Institutions Code.

15) Amend Section 1810.436 as follows:

§ 1810.436. MHP Individual, Group and Organizational Provider Contracting Requirements.

(a) At a minimum, a contract between an MHP and a provider shall meet federal contracting requirements as provided in Title 42, CFR Section 438.6(l), and shall include the following provisions:

(1) through (5) *[No Change to Regulation Text.]*

(6) If the contract is in excess of \$10,000 and utilizes State funds, a provision that: “The contracting parties shall be subject to the examination and audit of the Auditor General for a period of three years after final payment under contract (Government Code section 8546.7).” The MHP shall also be subject to the examination and audit of the State Auditor General for a period of three years after final payment under contract (Government Code section 8546.7).

(b) For Individual, Group and Organizational Providers that conduct utilization management activities, the MHP must ensure that the compensation arrangements in the contract are not structured so as to provide incentives for the individual or entity to deny, limit or discontinue medically necessary services to any beneficiary.

~~(b)~~ (c) No provision of a contract...

(d) Written policies that address a beneficiary’s rights as required by title 42 CFR section 438.100 shall be included in the contracts.

NOTE: Authority: Section 14680, Welfare and Institutions Code; Government Code section 8546.7. Reference: Sections 5777, 5778, and 14864, Welfare and Institutions Code and title 42 Code of Federal Regulations sections 438.6, 438.100.

16) Amend Section 1810.438 as follows:

§ 1810.438. Alternative Contracts and Payment Arrangements Between MHPs and Providers.

(a) *[No Change to Regulation Text.]*

(b) The MHP may request approval from the Department under this Section by submitting a written request to the Department containing a description of:

(1) The proposed contract terms concerning reimbursement or the proposed payment arrangement. For providers that will conduct utilization management activities, the MHP must ensure that the compensation arrangements in the contract are not structured so as to provide incentives for the provider to deny, limit, or discontinue medically necessary services to any beneficiary.

(2) A complete description of the administrative system of the provider and the MHP that will ensure proper payment to the provider, claiming of the FFP available for services provided to Medi-Cal beneficiaries under the Medi-Cal program, and MHP and provider cost reporting. If the contract is in excess of \$10,000 and utilizes State funds, a provision that: “The contracting parties shall be subject to the examination and audit of the Auditor General for a period of three years after final payment under contract (Government Code section 8546.7).” The MHP shall also be subject to the examination and audit of the State Auditor General for a period of three years after final payment under contract (Government Code section 8546.7).

(c) *[No Change to Regulation Text.]*

(d) Written policies that address beneficiary’s rights as required by title 42 CFR section 438.100 shall be included in the contracts.

~~(d)~~ (e) Contracts between the...

~~(e)~~ (f) Nothing in this Section...

~~(f)~~ (g) A negotiated case rate...

(h) The MHP shall obtain approval from the Department prior to implementing a Physician Incentive Plan as described at title 42 CFR section 438.6(h). The Department shall approve the MHP's request only if the proposed Physician Incentive Plan complies with all applicable federal and State regulations.

NOTE: Authority: Section 14680, Welfare and Institutions Code; Government Code section 8546.7. Reference: Section 1340 et seq., Health and Safety Code, and sections 5777, 5778, 5781 and 14684, Welfare and Institutions Code; 42 Code of Federal Regulations sections 438.6(h), 438.100.

17) Adopt Section 1810.439 as follows:

§ 1810.439. Provider-Beneficiary Communications.

In compliance with title 42 CFR section 438.102(a)(1), the MHP shall not prohibit, or otherwise restrict, a licensed, waived or registered professional as defined in sections 1810.223 and 1810.254 acting within the lawful scope of practice, from advising or advocating on behalf of a beneficiary for whom the provider is providing mental health services.

NOTE: Authority: Section 14680, Welfare and Institutions Code. Reference: Title 42 Code of Federal Regulations section 438.102(a)(1).

Subchapter 2. Medi-Cal Psychiatric Inpatient Hospital Services

Article 2. Provision of Services

18) Amend Section 1820.220 as follows:

§ 1820.220. MHP Payment Authorization by a Point of Authorization.

(a) through (e) [No Change to Regulation Text.]

(f) In accordance with title 42 CFR section 438.210(b)(2)(ii), the MHP shall consult with a hospital requesting authorization when appropriate.

~~(f)~~ (g) The MHP shall document...

~~(g)~~ (h) A request for an MHP...

~~(h)~~ (i) A Point of Authorization shall approve or deny the request for MHP payment authorization within 14 calendar days of the receipt of the request and, for a request from a Fee-for-Service Medi-Cal hospital, shall submit the TAR to the fiscal intermediary within 14 calendar days of approval or denial. The MHP shall consider a possible extension in accordance with timelines of title 42 CFR section 438.210(d)(1). If the MHP extends the timeframe, the MHP shall provide the beneficiary with written notice of the decision on the date the decision to extend is made. The notice to the beneficiary shall advise the beneficiary of the reason for the decision and the beneficiary's right to file a grievance if the beneficiary disagrees with the decision. The Point of Authorization shall provide for an expedited review of an MHP payment authorization request ~~for a planned admission in accordance with the timelines in~~ title 42 Code of Federal Regulations section 438.210(d)(2), when the MHP determines or the hospital certifies that following the 14-calendar-day time frame would seriously jeopardize the beneficiary's life, health or ability to attain, maintain or regain maximum function.

~~(i)-(j)~~ In accordance with title 42 CFR section 438.210(c), the MHP shall notify the requesting provider of any decision to deny an MHP payment authorization request, or to authorize a service in an amount, duration or scope that is less than requested. The notice to the provider need not be in writing.

~~(j)~~ (k) Approval of the MHP...

NOTE: Authority: Section 14680, Welfare and Institutions Code. Reference: Sections 5777, 5778, and 14684, Welfare and Institutions Code, and title 42 Code of Federal Regulations section 438.210.

19) Amend Section 1820.225 as follows:

§ 1820.225. MHP Payment Authorization for Emergency Admission by a Point of Authorization.

(a) through (d) *[No Change to Regulation Text.]*

(e) In accordance with title 42 CFR section 438.210(c), the MHP shall notify the requesting provider of any decision to deny an MHP payment authorization request, or to authorize a service in an amount, duration or scope that is less than requested. The notice to the provider need not be in writing.

~~(e)~~ (f) After an emergency admission...

(g) In accordance with title 42 CFR section 438.210(b)(2)(ii), the MHP shall consult with a hospital requesting authorization when appropriate.

NOTE: Authority: Section 14680, Welfare and Institutions Code and title 42 Code of Federal Regulations section 438.114(d)(ii). Reference: Sections 5777, 5778 and 14684, Welfare and Institutions Code and title 42 Code of Federal Regulations section 438.210.

Subchapter 3. Specialty Mental Health Services

Other than Psychiatric Inpatient Hospital Services

Article 2. Provision of Services

20) Amend Section 1830.215 as follows:

§ 1830.215. MHP Payment Authorization.

(a) The MHP may require that providers obtain MHP payment authorization of any or all specialty mental health services covered by this Subchapter as a condition of reimbursement for the service in accordance with the provisions of this section. MHP payment authorization under this section shall be provided in compliance with timelines and other provisions in title 42 CFR section 438.210 ~~which is hereby incorporated by reference.~~ If the MHP identifies and documents a need for additional information and how the extension is in the beneficiary's interest in its authorization records, the MHP may extend the authorization timeline as follows:

(1) When the MHP payment authorization is for EPSDT Supplemental Specialty Mental Health Services three working days from the date the additional information is received or 14 calendar days, whichever is less.

(2) For all other services, up to 14 calendar days.

(b) through (g) *[No Change to Regulation Text.]*

(h) In accordance with title 42 CFR section 438.210(b)(2)(ii), the MHP shall consult with a provider requesting authorization when appropriate.

NOTE: Authority: Section 14680, Welfare and Institutions Code. Reference: Sections, 5777, 5778, and 14684, Welfare and Institutions Code, and title 42 Code of Federal Regulations section 438.210.

Subchapter 4. Federal Financial Participation

Article 1. General

21) Amend Section 1840.112 as follows:

§ 1840.112. MHP Claims Certification and Program Integrity.

(a) through (b) *[No Change to Regulation Text.]*

(c) In compliance with title 42 CFR sections 433.15 and 455.18, the MHP's chief financial officer or equivalent or an individual with authority delegated by the chief financial officer shall sign the certification under penalty of perjury that the State share of payment for services covered by the claim has been provided in order to satisfy the matching requirement for federal financial participation.

(d) The MHP shall have mechanisms that support the certification, including the certification that the services for which claims were submitted were actually provided to the beneficiary.

NOTE: Authority: Sections 5775, 14043.75 and 14680, Welfare and Institutions Code.

Reference: Sections 5718, 5719, 5724, 5767, 5776, 5777, 5778 and 14684, Welfare and Institutions Code, and title 42 Code of Federal Regulations, sections 433.51, 438.604, 438.606, 436.608 and 455.18.

Subchapter 5. Problem Resolution Processes

Article 2. Fair Hearing and Notice of Action

22) Amend Section 1850.213 as follows:

§ 1850.213. Fair Hearings.

(a) *[No change to Regulation Text.]*

(b) The MHP shall carry out the final decisions of the fair hearing process with respect to issues within the scope of the MHP's responsibilities under the contract between the MHP and the Department.

(c) Nothing in this section is intended to prevent the MHP from pursuing any options available for appealing a fair hearing decision.

NOTE: Authority: Section 14684, Welfare and Institutions Code. Reference: Section 14684, Welfare and Institutions Code.